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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Jefferson YS Yang

Art Unit 1745

Serial No. 09/972,606

Filed October 5, 2001

Confirmation No. 4594

For DIAPHRAGM PUMP AND ANODE STREAM RECIRCULATION SYSTEM USING
SUCH PUMP FOR A FUEL CELL

Examiner Raymond Alejandro

September 26, 2003

ELECTION AND TRAVERSE OF RESTRICTION REQUIREMENT

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

SIR:

In response to the restriction requirement of August 26, 2003, applicant elects Group I, claims 1-10, with traverse.

Applicant respectfully traverses the requirement for restriction and requests the claim groupings listed in the Office action be rejoined. Apparatus claims 1-10 and apparatus claims 11-15 are intrinsically related in that claims 1-10 are directed to an anode stream recirculation system having a diaphragm pump and claims 11-15 are directed to a diaphragm pump for use in an anode stream recirculation system. Accordingly, Applicant requests Group I (claims 1-10) and Group II (claims 11-15) be rejoined for examination on the merits.

In paragraph 2 of the Office action, the Examiner cites MPEP § 806.05(c) in pointing out that inventions can be shown to be distinct if either "(1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations." Applicants respectfully

disagree with the statement in the Office action that the subcombination, i.e. diaphragm pump, as claimed has separate utility such as pumping fluid. Pumping fluid is not a separate utility. Pumping fluid is the utility of the diaphragm pump in both sets of claims.

The scope of the search would appear to be not merely overlapping, but identical. Searching for prior art pertaining to a diaphragm pump will not be limited to anode stream recirculation systems for either set of claims. Accordingly, all of the claims should be examined together.

Conclusion

In view of the foregoing, applicants respectfully request that the Examiner rejoin claims 1-10 and 11-15.

Respectfully submitted,



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